

REGISTER OF ACTIONS
CASE No. 2021DCV3804

Luis David Velarde-Garcia VS Robert Joshep Baca and Shamrock Foods Company

Case Type: Injury or Damage - Motor Vehicle
Date Filed: 10/28/2021
Location: County Court at Law 3

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PARTY INFORMATION

Defendant	Baca, Robert Joshep	Lead Attorneys DARRYL S VEREEN <i>Retained</i> 915-532-2000(W)
Defendant	Shamrock Foods Company	DARRYL S VEREEN <i>Retained</i> 915-532-2000(W)
Plaintiff	Velarde-Garcia, Luis David	DANIELA LABINOTI <i>Retained</i> 915-581-4600(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

10/28/2021	Original Petition (OCA)	Index # 1	
10/28/2021	Case Information Sheet	Index # 2	
10/28/2021	Request	Index # 3	
10/28/2021	E-File Event Original Filing		
11/02/2021	Citation		
	Baca, Robert Joshep		Served 12/31/2021
	Shamrock Foods Company		Response Received 01/21/2022
			Returned 01/10/2022
			Served 11/15/2021
			Response Received 12/01/2021
			Returned 11/30/2021
12/01/2021	Motion for Bifurcated Trial	Index # 6	
12/01/2021	Answer	Index # 7	
12/28/2021	Certificate of Service	Index # 8	
12/28/2021	Witness List	Index # 9	
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12/28/2021	Exhibit List	Index # 11	
12/30/2021	Certificate of Written Discovery	Index # 12	
01/04/2022	Certificate of Service	Index # 13	
01/21/2022	Answer	Index # 16	
01/24/2022	Certificate of Service	Index # 17	
01/26/2022	Notice of Intent to Use	Index # 18	
01/26/2022	Notice of Intent to Use	Index # 19	
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01/26/2022	Notice of Intent to Use	Index # 22	



El Paso County - County Court at Law 3

Filed 10/28/2021 11:38 AM

Norma Favela Barceleau
District Clerk
El Paso County
2021DCV3804**LUIS DAVID VELARDE-GARCIA**
Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

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CAUSE NO.: 2021-DCV-_____

PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, LUIS DAVID VELARDE-GARCIA, complaining of ROBERT JOSHEP BACA, Defendant (hereinafter referred to as "Defendant BACA") and SHAMROCK FOODS COMPANY, Defendant (hereinafter referred to as "Defendant SHAMROCK FOODS") and for a cause of action would respectfully show the Court as follows:

I.**DISCOVERY PLAN**

Pursuant to Rule 190, discovery in this case will be conducted in Level 3.

II.**PARTIES AND SERVICE**

Plaintiff is a resident of El Paso County, Texas.

Defendant, ROBERT JOSHEP BACA, is a resident of Hatch, New Mexico, and may be served with process and a copy of this Original Petition by serving him at his place of residence at 250 School St., Hatch, NM 87937 (or wherever he may be found).

Defendant SHAMROCK FOODS COMPANY is a foreign for-profit corporation doing business in Texas, and specifically in El Paso County, Texas. It may be served with citation and a copy of this Original Complaint by serving its registered agent, CT CORPORATION SYSTEM, 1999 Bryan St., Ste. 900, Dallas, Texas 75201 and/or wherever its registered agent may be found.

III.
VENUE & JURISDICTION

Venue is proper in El Paso County, Texas, pursuant to Tex.Civ.Prac. & Rem. Code §15.002(a)(1) because El Paso County, Texas, is the county in which all or a substantial part of the events or omissions giving rise to the underlying claim occurred. Jurisdiction is proper in this Texas state Court in that Plaintiff has asserted damages within the jurisdictional limits of the Court.

IV.
BACKGROUND & FACTS

The injuries and damages suffered by Plaintiff and made the basis of this action arose out of an occurrence on or about December 16, 2019, in El Paso County, Texas. At such time and place, Plaintiff LUIS VELARDE was traveling eastbound, in the middle lane near the 6100 block of Montana Ave., as a retrained driver and was proceeding with the flow of traffic in a construction area, Defendant ROBERT BACA was operating an 18-wheeler that was owned and entrusted to him by Defendant SHAMROCK FOODS COMPANY. As Plaintiff was driving, Defendant BACA failed to exercise proper lookout and traveled into the middle lane where Plaintiff was traveling. Defendant BACA failed to pay attention, failed to keep a safe distance, and a proper lookout, and made an unsafe lane change consequently, colliding with Plaintiff LUIS VELARDE. Upon arriving on the scene, Defendant BACA was cited for an unsafe lane change and causing the accident. *(See Police Report attached hereto and incorporated herein)*. Defendant acted recklessly and negligently, and not as ordinary prudent driver and such negligence proximately caused Plaintiff's damages and injuries. The crash caused substantial damage to the body of Plaintiff. Plaintiff LUIS VELARDE sustained injuries to his neck, chest injury and abrasion, and muscle spasms and strains, along with severe anxiety, Plaintiff LUIS VELARDE was distraught, nervous, scared, and confused.

Plaintiff has had difficulty performing his daily activities and household duties. Plaintiff has suffered from pain and impairment. Plaintiff has sustained pain and suffering in the past, mental anguish, impairment in the past and continue to suffer to date. Plaintiff has incurred medical bills and

charges that were reasonably and necessary for her treatments proximately caused by this accident.

Plaintiff will in reasonable probability sustain medical expenses in the future.

V.

**PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST
DEFENDANT ROBERT BACA**

Defendant BACA owed a reasonable degree of care to Plaintiff. Plaintiff alleges that the collision and Plaintiff's damages were proximately caused by the negligence of Defendant BACA arising from one or more of the following acts or omissions on the part of Defendant BACA:

1. Failure to control their speed in violation of the Texas Transportation Code §545.351;
2. Failure to keep a proper look out;
3. Failure to apply to the brakes to the motor vehicle in a timely and prudent manner;
4. Failure to take proper evasive action to avoid the collision complained of;
5. Failure to honk and give adequate warning of the impending danger;
6. Failure to warn of his approach;
7. Failure to use due care in operating a motor vehicle.
8. Reckless driving.
9. Failure to act as a reasonable prudent person in operating a commercial vehicle

Each of which acts, or omissions was other than what a reasonable and prudent person would have been doing under the same or similar circumstances. Each of which acts, or omissions were a proximate cause of Plaintiff's damages.

VI.

**PLAINTIFF'S CLAIMS OF RESPONDEAT SUPERIOR AGAINST
DEFENDANT SHAMROCK FOODS COMPANY**

Alternatively, and without waiving the foregoing, at the time of the occurrence of the act in question and immediately prior thereto, Defendant BACA was within the course and scope of employment for Defendant SHAMROCK FOODS.

At the time of the occurrence of the act in question and immediately prior thereto, Defendant BACA was engaged in the furtherance of Defendant SHAMROCK FOODS's business.

At the time of the occurrence of the act in question and immediately prior thereto, Defendant BACA was engaged in accomplishing a task for which Defendant SHAMROCK FOODS presumed to be ROBERT BACA was employed.

Plaintiff invokes the doctrine of Respondeat Superior as against Defendant SHAMROCK FOODS.

At the time of the occurrence of the act in question and immediately prior thereto, Defendant BACA was engaged in the furtherance of Defendant SHAMROCK FOOD's business.

At the time of the occurrence of the act in question and immediately prior thereto, Defendant BACA was engaged in accomplishing a task for which Defendant BACA was employed.

Plaintiffs invokes the doctrine of Respondeat Superior as against Defendant BACA and Defendant SHAMROCK FOODS.

VII.

NEGLIGENT HIRING, TRAINING, AND SUPERVISION

Plaintiffs would show that Defendant SHAMROCK FOODS had a duty to hire competent agent and employees. Defendant SHAMROCK FOODS failed to hire a competent driver to operate the vehicle on the date in question.

Defendant SHAMROCK FOODS also has a duty to train and supervise the employees. Defendant SHAMROCK FOODS breached their duty to the public and Plaintiffs' by failing to properly train and supervise its employee and agent, that proximately caused Plaintiffs' injuries and damages.

Defendant SHAMROCK FOODS acted with reckless disregard and gross negligence as to the rights of the public including the Plaintiff, in failing to adequately train and supervise their employees in operating the commercial vehicle and not operating the vehicle as a reasonable prudent driver while course and scope with SHAMROCK FOODS. Defendant's actions and omissions engaged the lives of other drivers including the Plaintiff, who was harmed by Defendant's actions.

Plaintiff seeks punitive/exemplary damages. Defendant's actions and omissions in negligently hiring, training, and supervising their driver that Defendant knew or should have known was reckless in his driving abilities and that they involved an extreme degree of risk, considering the probability and

magnitude of the potential harm to others; and of which, Defendant had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others including, that of the Plaintiff.

VIII.
NEGLIGENT ENTRUSTMENT BY DEFENDANT SHAMROCK FOODS COMPANY

Alternatively, and without waiving the foregoing, said collision and Plaintiffs damages were proximately caused as a result of the negligence of Defendant SHAMROCK FOODS. Plaintiff allege that the collision and Plaintiff's damages were proximately caused by one or more of the following alternative theories of negligence on the part of Defendant BACA:

1. That on December 16, 2019, Defendant SHAMROCK FOODS, was negligent per se by entrusting the control and operation of the motor vehicle, which was under their ownership and control, to Defendant BACA.
2. Allowing Defendant BACA to operate their vehicle on the public streets of El Paso County, Texas and in particular, at the location referred to above, when they knew or should have known that Defendant BACA was unfit, incompetent, reckless, and unskilled to operate the vehicle.
3. Defendant BACA was negligent on the occasion in question.

Each of which acts, or omissions was other than what a reasonable and prudent person would have been doing under the same or similar circumstances. Each of which acts, or omissions were a proximate cause of Plaintiffs damages.

IX.
EXEMPLARY DAMAGES

Defendant BACA acts or omissions described above, when viewed from the standpoint of Defendant BACA at the time of the act or omission, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Plaintiff and others. Defendant BACA has actual, subjective awareness of the risk involved in the above-described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiffs and others.

Based on the facts stated herein, Plaintiff requests exemplary damages be awarded to Plaintiff from Defendant BACA.

Defendant SHAMROCK FOODS's acts or omissions described above, when viewed from the standpoint of Defendant SHAMROCK FOODS, at the time of the act or omission, involved an extreme degree or risk, considering the probability and magnitude of the potential harm to Plaintiff and others. Defendant SHAMROCK FOODS, has actual, subjective awareness of the risk involved in the above-described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiff and others.

Based on the facts stated herein, Plaintiff requests exemplary damages be awarded to Plaintiff from Defendant SHAMROCK FOODS.

X.
DAMAGES TO PLAINTIFF

Plaintiff has incurred expenses for medical/health care, nursing services, attention, and other expenses. These expenses incurred were necessary for the care and treatment of the injuries sustained by Plaintiff and the charges made and to be made were the usual and customary charges for such services in El Paso County, Texas, in which such care and treatment were and will be rendered. Plaintiff will require further medical care, surgery, nursing services and attention, and will incur reasonable expenses in the future for such medical needs.

Plaintiff was also prevented from performing his daily activities as a direct result of the subject accident and will continue to be unable to perform his daily activities in the future. Plaintiff has suffered physical pain and suffering in the past and will continue to suffer physical pain and suffering in the future. Plaintiff has suffered mental pain and anguish in the past and will continue to suffer mental pain and anguish in the future. Plaintiff has suffered emotional distress in the past and will continue to suffer emotional distress in the future. As a direct result of the injuries described above, Plaintiff has suffered and will continue to suffer impairment to his body.

Plaintiff has suffered damages within the jurisdictional limits of this Court and hereby asserts this claim for damages against the Defendants. Plaintiff seeks damages economic and non-economic damages including but not limited for medical expenses, pain and suffering in the past and future, mental anguish in the past and future, impairment in the past and future. As a direct result of the occurrence, Plaintiff has suffered and will continue to suffer impairment to his bodies. Plaintiff has suffered disfigurement.

XI.

PLAINTIFF'S CLAIM FOR PROPERTY DAMAGES AGAINST DEFENDANT'S

Plaintiff would further show that Defendants' negligent conduct, as described above, proximately resulted in major damage to the vehicle that Plaintiff LUIS VELARDE was driving at the time of the subject collision, therefore, Plaintiff hereby sues Defendants for the reasonable cost of Plaintiff's vehicle. Further, Plaintiff would show that as a proximate result of Defendants' negligent conduct, Plaintiff has sustained loss of use damages. Therefore, Plaintiff hereby further asserts his claim for loss of use damages, asking that the trier of fact award them the reasonable value of a replacement rental automobile from the date of the subject automobile accident to the date of the entry of judgment.

Plaintiffs hereby notify Defendant that Plaintiffs intend to use Defendant's discovery answers and responses, including any evidence produced in responses to such discovery, as evidence in trial in accordance with such right and privileges established by Tex. R. Civ. P. 193.7.

XII.

REQUEST FOR INITIAL DISCLOSURES TO DEFENDANT DUTY TO DISCLOSE WITHIN 30 DAYS OF THE SERVICES

PLEASE BE ADVISED THAT UNDER TEXAS RULE 194 YOU MUST PRODUCE AND PROVIDE THE REQUIRED DISCLOSURES WITHIN 30 DAYS OF SERVICE

(a) Time for Initial Disclosures. A party must make the initial disclosures within 30 days after the filing of the first answer or general appearance unless a different time is set by the parties' agreement or court

order. A party that is first served or otherwise joined after the filing of the first answer or general appearance must make the initial disclosures within 30 days after being served or joined.

(b) **Content.** Without awaiting a discovery request, Aa party may request disclosure of any or all of the following must provide to the other parties:

- (1) the correct names of the parties to the lawsuit;
- (2) the name, address, and telephone number of any potential parties,
- (3) the legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);
- (4) the amount and any method of calculating economic damages;
- (5) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
- (6) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the responding party has in its possession, custody, or control, and may use to support its claims or defenses, unless the use would be solely for impeachment;
- (7) any indemnity and insuring agreements described in Rule 192.3(f);
- (8) any settlement agreements described in Rule 192.3(g);
- (9) any witness statements described in Rule 192.3(h);
- (10) in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills;
- (11) in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party; and
- (12) the name, address, and telephone number of any person who may be designated as a responsible third party.

194.3 Testifying Expert Disclosures.

In addition to the disclosures required by Rule 194.2, a party must disclose to the other parties testifying expert information as provided by Rule 195.

Disclosures. Without awaiting a discovery request, a party must provide the following for any testifying expert:

- (1) the expert's name, address, and telephone number;
- (2) the subject matter on which the expert will testify;
- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information.
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:

XIII.
RELIEF REQUESTED

Pursuant to Tex. R. Civ. P. 47(c), Plaintiff is required to plead the maximum amount of damages sought, however, some damages are unliquidated and cannot be easily calculated in monetary terms. In addition, discovery has not yet begun and the extend of Plaintiff's future damages is still being determined. At the early stage of the proceedings, Plaintiff requests that the jury be fair and reasonable in its determination of actual and exemplary damages in an amount over \$250,000.00 but no more than \$1,000,000.00.

XIV.
JURY DEMAND

Plaintiffs respectfully requests a trial by jury of the issues presented in this case.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer, and that on final trial, Plaintiffs have judgment against Defendants for monetary relief over \$100,000.00 but not more than \$250,000.00, including damages of any kind, penalties, costs, expenses, and pre-judgment interest. Plaintiffs further pray for such other relief, general and special, at

law or in equity, to which Plaintiffs are entitled.

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.

Attorneys for Plaintiff

daniela@labinotilaw.com

707 Myrtle Avenue

El Paso, Texas 79901

(915) 581-4600 voice

(915) 581-4605 facsimile

/s/ DANIELA LABINOTI

DANIELA LABINOTI

State Bar No.: 24050900

CIVIL CASE INFORMATION SHEET

Norma Favela Barceleau

CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

District Clerk

STYLED: **LUIS DAVID VELARDE-GARCIA VS. ROBERT JOSHEP BACA AND SHAMROCK FOODS COMPANY**

El Paso County

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

2021DCV3804

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing. This sheet, approved by the Texas Judicial Council, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet: Name: Daniela Labinoti Address: 707 Myrtle Ave. City/State/Zip: El Paso, Texas 79901 Signature: <u>/s/ Daniela Labinoti</u> Email: Daniela@labinotilaw.com Telephone: (915) 581-4600 Fax: (915) 581-4605 State Bar No: 24050900		Names of parties in case: Plaintiff(s)/Petitioner(s): LUIS DAVID VELARDE-GARICA Defendant(s)/Respondent(s): [Attach additional page as necessary to list all parties] ROBERT JOSHEP BACA and SHAMROCK FOODS COMPANY		Person or entity completing sheet is: <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____	
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil			Family Law		
Contract <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input checked="" type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____	
Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____				
Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax: _____	Probate & Mental Health Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____				
3. Indicate procedure or remedy, if applicable (may select more than 1):					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
4. Indicate damages sought (do not select if it is a family law case) <input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief. <input type="checkbox"/> Over \$100,000 but not more than \$200,000. <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000. <input type="checkbox"/> Over \$1,000,000					



Law Firm of Daniela Labinoti A Professional Corporation

-Licensed in Texas and New Mexico -

October 28, 2021

El Paso County – District Clerk

RE: CITATION FOR DEFENDANTS
CAUSE NO.
TYPE OF SERVICE: TWO (2) FOR CERTIFIED MAIL RETURN RECEIPT
REQUESTED

Dear Sir or Madam,

We are requesting citations be issued for the two (2) Defendants in the case styled:

*Luis David Velarde-Garcia v. Robert Joshep Baca and Sharmrock Foods
Company*

The citations to be issued are:

1. Defendant ROBERT JOSHEP BACA is a resident of Hatch, New Mexico, and may be served with process and a copy of this Original Petition by serving him at his place of resident at 250 School St., Hatch, NM 87937 or wherever he may be found.
2. Defendant SHAMROCK FOODS COMPANY is a foreign for-profit corporation doing business in Texas and in the County of El Paso, Texas and may be served with process through their registered agent CT CORPORATION SYSTEM, 1999 Bryan St., Ste. 900, Dallas, Texas 75201 or wherever they may be found.

Please be advised that the citations for the above referenced matter should be emailed to the following email addresses:

daniela@labinotilaw.com

suetta@labinotilaw.com

melissa@labinotilaw.com

707 Myrtle El Paso, Texas 79901

www.labinotilaw.com ♦ email: Daniela@labinotilaw.com

Phone (915) 581-4600 ♦ Fax (915) 581-4605

As of January 1, 2021, the Texas Rules of Civil Procedure have changed and now require additional, specific language in the citation. **Please be sure the citations include the following language:**

The citation shall direct the defendant to file a written answer to the plaintiff's petition on or before 10:00 a.m. on the Monday next after the expiration of twenty days after the date of service thereof.

The citation shall include the following notice to the defendant: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org."

Thank you.

Very truly yours,

/s/ Daniela Labinoti
DANIELA LABINOTI

El Paso County - County Court at Law 3

Filed 11/30/2021 9:35 AM

Norma Favela Barceleau

District Clerk

El Paso County

2021DCV3804

THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org."

11-15-21

TO: **SHAMROCK FOODS COMPANY**, who may be served with process by serving its registered agent **CT CORPORATION SYSTEM** at **1999 BRYAN ST. STE 900, DALLAS, TEXAS 75201**

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition and Jury Demand** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable County Court at Law Number 3, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on 10/28/2021, by Attorney at Law DANIELA LABINOTI 707 MYRTLE AVENUE EL PASO TX 79901 in this case numbered **2021DCV3804** on the docket of said court, and styled:

Luis David Velarde-Garcia VS Robert Joshep Baca and Shamrock Foods Company

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition and Jury Demand** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, this on this the 2nd day of November, 2021

Attest: **NORMA FAVELA BARCELEAU**, District Clerk, El Paso County, Texas.

CLERK OF THE COURT
NORMA FAVELA BARCELEAU
District Clerk
Enrique Moreno County Courthouse
500 E. San Antonio Ave, RM. 103
El Paso Texas, 79901



By Corina Ramirez, Deputy

CERTIFICATE OF DELIVERY BY MAIL

I hereby certify that on the 3rd day of

November, 2021, at 2:15 I mailed to AM
1999 Bryan St Ste 900
Dallas, TX 75201

defendant(s) by registered mail or certified mail with delivery restricted to addressee only, return receipt requested, a true copy of this citation with a copy of the **Plaintiff's Original Petition and Jury**

Demand attached thereto.

Kathryn A. 12
3616
TITLE

ATTACH
RETURN RECEIPTS
WITH
ADDRESSEE'S SIGNATURE
Rule 106 (a) (2) the citation shall be served by mailing to the defendant by Certified Mail Return receipt requested, a true copy of the citation. Sec. 17.027 Rules of Civil Practice and Remedies Code: If not prepared by Clerk of Court.

NAME OF PREPARER	TITLE
ADDRESS	
CITY	STATE ZIP

RETURN OF SERVICE

Delivery was completed on 11-15-2021, delivered to CT Corporation System on Behalf of Spence
Foods Company as evidence by Domestic Return Receipt PS Form 3811
attached hereto.

The described documents were not delivered to the named recipient. The certified mail envelope was returned
undelivered marked _____.

This forwarding address was provided: _____

7020 2456 0000 6070 3353
7021 0950 0000 4422 3371
El Paso County, Texas

By: _____
Deputy District Clerk

OR
[Signature] 09.36.16
Name of Authorized Person

By: KATHRYN AZIZ

VERIFICATION BY AUTHORIZED PERSON

State of Texas

County of El Paso

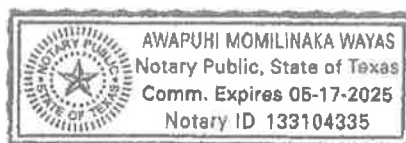
Before me, a notary public, on this day personally appeared Kathryn Aziz known to me to be the person
whose name is subscribed to the foregoing Return of Service, and being by me first duly sworn, declared, "I am
disinterested party qualified to make an oath of that fact and statements contained in the Return of Service and true and
correct."

Subscribed and sworn to be on this 30th day
of November, 2021.

[Signature]

Notary Public, State of Texas

My commission expires: 05-17-2025



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>C. Date of Delivery <i>NOV 15 2021</i></p>	
<p>1. Article Addressed to:</p> <p><i>Shamrock Foods Company</i> <i>CT Corp System</i> <i>1999 Bryan St</i> <i>Dallas TX 75201</i></p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes, enter delivery address below:</p> <p><i>Ste 900</i></p>	
<p>2. Article Number (Transfer from service label)</p> <p><i>9590 9402 5439 9189 6029 21</i></p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-8053</p>		<p>Domestic Return Receipt</p>	

El Paso County - County Court at Law 3

Filed 1/10/2022 3:12 PM

Norma Favela Barceleau

District Clerk

El Paso County

2021DCV3804

THE STATE OF TEXAS

12-31-21

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org."

TO: **Robert Joshep Baca**, who may be served with process at **250 SCHOOL ST., HATCH, NM 87937**

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition and Jury Demand** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 3**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on 10/28/2021, by Attorney at Law DANIELA LABINOTI 707 MYRTLE AVENUE EL PASO TX 79901 in this case numbered **2021DCV3804** on the docket of said court, and styled:

Luis David Velarde-Garcia VS Robert Joshep Baca and Shamrock Foods Company

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition and Jury Demand** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, this on this the 2nd day of November, 2021

Attest: NORMA FAVELA BARCELEAU, District Clerk, El Paso County, Texas.

CLERK OF THE COURT
NORMA FAVELA BARCELEAU
District Clerk

Enrique Moreno County Courthouse
500 E. San Antonio Ave, RM 103
El Paso Texas, 79901



By _____, Deputy
Corina Ramirez

ATTACH
RETURN RECEIPTS
WITH

ADDRESSEE'S SIGNATURE

Rule 106 (a) (2) the citation shall be served by mailing to the defendant by Certified Mail Return receipt requested, a true copy of the citation. Sec. 17.027 Rules of Civil Practice and Remedies Code If not prepared by Clerk of Court.

*NAME OF PREPARER TITLE

ADDRESS

CITY STATE ZIP

CERTIFICATE OF DELIVERY BY MAIL

I hereby certify that on the 23rd day of December 2021, at 2:17 I mailed to pin
ROBERT BACA
Hatch NM 87937

defendant(s) by registered mail or certified mail with delivery restricted to addressee only, return receipt requested, a true copy of this citation with a copy of the **Plaintiff's Original Petition and Jury Demand** attached thereto.

KATHRYN ARIZ
PSC 3616
TITLE

RETURN OF SERVICE

Delivery was completed on 12-31-2021, delivered to Robert Joseph Baca as evidence by Domestic Return Receipt PS Form 3811 attached hereto.

The described documents were not delivered to the named recipient. The certified mail envelope was returned undelivered marked _____

This forwarding address was provided: _____

7020 2450 0000 6070 3352

El Paso County, Texas

By: _____
Deputy District Clerk

OR

Name of Authorized Person

By: KATHRYN AZIZ

VERIFICATION BY AUTHORIZED PERSON

State of Texas

County of El Paso

Before me, a notary public, on this day personally appeared Kathryn Aziz, known to me to be the person whose name is subscribed to the foregoing Return of Service, and being by me first duly sworn, declared, "I am disinterested party qualified to make an oath of that fact and statements contained in the Return of Service and true and correct."



Subscribed and sworn to be on this 10th day
of January, 2022

[Signature]
Notary Public, State of Texas
My commission expires: 02-03-25

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p><input checked="" type="checkbox"/> Complete items 1, 2, and 3.</p> <p><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</p> <p><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</p>	<p>A. Signature </p> <p><input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____</p> <p>C. Date of Delivery <u>6/31</u></p>
<p>1. Article Addressed to:</p> <p><u>Robert Joseph. Brown</u> <u>PO Box 1014</u> <u>Hatch, NM</u> <u>87737</u></p> <p></p> <p>9590 9402 4170 8092 3446 86</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p> <p><u>421 PM</u></p> <p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Restricted Delivery</p>
<p>2. Article Number (Transfer from service label)</p> <p>7020 3160 0001 7116 6869</p>	<p><input type="checkbox"/> Restricted Delivery</p>

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

IN THE COUNTY COURT AT LAW NUMBER THREE

EL PASO COUNTY, TEXAS

LUIS DAVID VELARDE GARCIA

Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

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Cause No. 2021DCV3804

DEFENDANT'S MOTION FOR BIFURCATED TRIAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW SHAMROCK FOODS COMPANY, a Defendant in the above-entitled and captioned cause, and submits its Motion for Bifurcated Trial and respectfully shows the Court as follows:

I.

This is personal injury case arising out of a motor vehicle accident. The action was filed on 10/28/2021. Plaintiffs' Original Petition alleges various acts of independent negligence against Defendant arising out of the hiring and retention of their driver Robert Joshep [sic] Baca, among other claims.

II.

Pursuant to Tex. Civ. Prac. & Rem. Code Ann. § 72.051 *et seq.*, Defendant timely requests a bifurcated trial on the issue of Defendants' direct liability and exemplary damages, together with all statutory limitations on evidence that may be admissible. Defendant further requests a bifurcated trial on the amount of any alleged exemplary damages pursuant to Tex. Civ. Prac. & Rem. Code Ann. § 41.009.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that the Court grant this Motion for Bifurcated Trial, order that the issues of independent negligence/direct liability and punitive damages be tried separately, and grant Defendant such other and further relief, general or special, legal or equitable, to which Defendant may show be entitled.

Respectfully submitted,

**MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.**
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
E-Mail: vereen@mgmsg.com
E-Mail: mundell@mgmsg.com

By: 

Darryl S. Vereen

State Bar No. 00785148

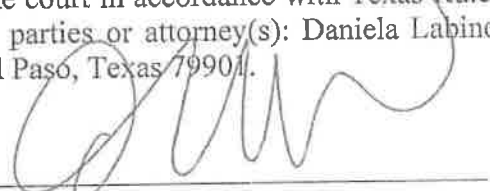
Cal Mundell

State Bar No. 24109059

Attorneys for Defendant

CERTIFICATE OF SERVICE

In compliance with Texas Rule of Civil Procedure 21a (e), I, **Darryl S. Vereen**, hereby certify that on the 1 day of December, 2021, a true and correct copy of the foregoing document filed electronically with the clerk of the court in accordance with Texas Rule of Civil Procedure 21a (f)(1) is served on the following parties or attorney(s): Daniela Labinoti, Esq., daniela@labinotilaw.com, 707 Myrtle Avenue, El Paso, Texas 79901.


Darryl S. Vereen

EL PASO COUNTY, TEXAS

V.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

www.ck12.org

Cause No. 2021DCV3804

DEFENDANT SHAMROCK FOODS COMPANY'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW SHAMROCK FOODS COMPANY, a Defendant in the above-entitled and numbered cause, and files its Original Answer in reply to Plaintiff's Original Petition, and for answer says:

I.

Pursuant to Tex. R. Civ. P. 92, Defendant enters its general denial as to Plaintiff's Petition and demands strict proof thereof.

II.

With regard to any allegations of negligence *per se*, Defendant would show that Defendants' alleged acts or omissions were excused, as that term is defined and understood by law.

III.

Alternatively, Defendant would show the occurrence in question was an unavoidable accident, as that term is defined and understood by law.

IV.

Defendant would show that all or part of Plaintiff's claims are barred by Tex. Civ. Prac. & Rem. Code Ann. §41.0105 since Plaintiff may only recover medical expenses actually paid or incurred.

V.

Defendant would show that all or part of Plaintiff's alleged claims are barred by Tex. Civ. Prac. & Rem. Code Ann. § 18.091, since any evidence of wages or economic damages must be presented in an after-tax format.

VI.

Defendant would show that Plaintiff has failed to mitigate his alleged damages and injuries, if any, as that term is defined and understood by law.

VII.

Pursuant to Tex. Civ. Prac. & Rem. Code Ann. § 72.054 *et seq.*, Defendant stipulates that Defendant Robert Joshep [sic] Baca was Defendant's employee and was in the course and scope of this employment at the time of the alleged 12/16/19 occurrence in question.

VIII.

With regard to any allegation of punitive or exemplary damages, Defendant invokes all caps and limitations set forth in Tex. Civ. Prac. & Rem. Code Ann. § 41.008 *et. seq.* Defendant would further show that the imposition of exemplary or punitive damages against Defendant would violate Defendant's rights under the Fifth, Eighth and Fourteenth Amendments to the United States Constitution, and other similar provisions of the Texas State Constitution. Defendant further objects to the assessment of any pre-judgment interest on any award of exemplary damages, or to being responsible for any exemplary damages not awarded against this specific Defendant

pursuant to Tex. Civ. Prac. & Rem. Code Ann. §§ 41.006-007.

IX.

Defendant requests trial by jury and reserves the right to amend.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that upon final hearing that it be discharged and allowed to go hence without day and with its costs and that the Court grant Defendant such other and further relief, general or special, legal or equitable, to which Defendant may be justly entitled.

Respectfully submitted,

**MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.**
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
E-Mail: vereen@mgmsg.com
E-Mail: mundell@mgmsg.com

By: 

Darryl S. Vereen
State Bar No. 00785148
Cal Mundell
State Bar No. 24109059

Attorneys for Defendant

CERTIFICATE OF SERVICE

In compliance with Texas Rule of Civil Procedure 21a (e), I, **Darryl S. Vereen**, hereby certify that on the 1 day of December, 2021, a true and correct copy of the foregoing document filed electronically with the clerk of the court in accordance with Texas Rule of Civil Procedure 21a (f)(1) is served on the following parties or attorney(s): Daniela Labinoti, Esq., daniela@labinotilaw.com, 707 Myrtle Avenue, El Paso, Texas 79901.



Darryl S. Vereen

**IN THE COUNTY COURT AT LAW NUMBER THREE
EL PASO COUNTY, TEXAS**

LUIS DAVID VELARDE-GARCIA
Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

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CAUSE NO.: 2021-DCV-3804

CERTIFICATE OF SERVICE

COMES NOW, **LUIS DAVID VELARDE-GARCIA**, Plaintiff in the above entitled and numbered cause and files this her Certificate of Service and states that the following documents were served through email and the Texas E-Filing System to counsel for Defendants:

1. Plaintiff's Initial Disclosures
2. Plaintiff's Witness List and Persons with Relevant Knowledge
3. Plaintiff's Designation of Non-Retained Experts
4. Plaintiff's Exhibit List

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.

707 Myrtle

El Paso, Texas 79901

(915) 581-4600

(915) 581-4605

Daniela@LabinotiLaw.com

/s/ Daniela Labinoti

DANIELA LABINOTI

State Bar No. 24050900

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of December 2021, a true and correct copy of the foregoing was delivered to:

Darryl Vereen
Cal Mundell
MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
vereen@mgmsg.com
mundell@mgmsg.com
Attorneys for Defendant Shamrock Foods Co.

/s/ Daniela Labintori
DANIELA LABINOTI

DL/mt

**IN THE COUNTY COURT AT LAW NUMBER THREE
EL PASO COUNTY, TEXAS**

LUIS DAVID VELARDE-GARCIA**Plaintiff,****v.****ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY****Defendants.**

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CAUSE NO.: 2021-DCV-3804

WITNESS LIST AND PERSONS WITH RELEVANT KNOWLEDGE

COMES NOW **LUIS DAVID VELARDE-GARCIA**, Plaintiff in the above entitled and numbered cause and files this his Witness List, and Persons with Relevant Knowledge as follows:

PLAINTIFF'S LAY WITNESSES

Luis David Velarde-Garcia**c/o Daniela Labinoti**

707 Myrtle Ave

El Paso, Texas 79901

(915) 581-4600

Plaintiff. Will testify concerning the accident made the basis of this lawsuit, as well as his injuries, past and future medical bills. Physical limitations and restrictions, past and future impairment, and past and future pain, suffering and mental anguish.

Shamrock Foods Co.**Darryl Vereen****Cal Mundell****c/o MOUNCE, GREEN, MYERS****SAFI, PAXSON & GALATZAN, P.C.**

P.O. Drawer 1977

El Paso, Texas 79999-1977

Phone: (915) 532-2000

Defendant. Will testify regarding Defendants' negligence, Plaintiff's injuries and Plaintiff's claims and damages, as well as the circumstances of the accident.

Robert Joseph Baca

250 School St.

Hatch, New Mexico 87937

Defendant. Will testify regarding Defendants' negligence, Plaintiff's injuries and Plaintiff's claims and damages, as well as the circumstances of the accident.

Rick Alvarado

Address Unknown

(915) 490-2113

Witness to Accident and made 911 Call. Will testify as to Defendant's negligence and as well as the circumstances of the accident.

J. Hernandez #2566

Personnel, Employees, and Custodian(s) of records of:

El Paso Police Department

911 N. Raynor

El Paso, Texas 79902

(915) 212-4000

Will testify concerning his investigation, his findings, Plaintiff's injuries, and police report he prepared, Defendant's negligence.

Jennifer Kulper

Ryan Mielke EMT Paramedic

Dante Cardona EMT Basic

Dennis Redd (Custodian of Records)

Physicians, nurses, employees, personnel and custodian(s) of records of:

El Paso Fire Department

416 N. Stanton

El Paso, TX. 79901

Plaintiff's healthcare provider. Will testify as to Plaintiff's injuries, past and future medical expenses, physical limitations and restrictions, past and future impairment, past and future pain and suffering and mental anguish.

Ryan Bou Said M.D.

Sajeev Ezhapilli Chennan M.D.

Alexander Kresta M.D.

Michelle Lorilla (Custodian of Records)

Physicians, nurses, employees, personnel and custodian(s) of records of:

University Medical Center

4815 Alameda

El Paso, TX. 79905

Plaintiff's healthcare provider. Will testify as to Plaintiff's injuries, past and future medical expenses, physical limitations and restrictions, past and future impairment, past and future pain and suffering and mental anguish.

Sajeev Ezhapilli Chennan M.D.

Ana Deslongchamps (Custodian of Records)

Personnel, employees, and custodian(s) of records of:

Texas Tech University Health Science

P.O. Box 732556

Dallas, TX. 75373-2556

Plaintiff's healthcare provider. Will testify as to Plaintiff's injuries, past and future medical expenses, physical limitations and restrictions, past and future impairment, past and future pain and suffering and mental anguish.

PLAINTIFF'S NON-RETAINED EXPERTS

J. Hernandez #2566

Personnel, employees, and custodian(s) of records of:

El Paso Police Department

911 N. Raynor

El Paso, Texas 79902

(915) 212-4000

Will testify concerning his investigation, his findings, Plaintiff's injuries, and police report he prepared, Defendant's negligence.

Jennifer Kulper

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Dennis Redd (Custodian of Records)

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El Paso Fire Department

416 N. Stanton

El Paso, TX. 79901

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4815 Alameda

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Sajeev Ezhapilli Chennan M.D.

Ana Deslongchamps (Custodian of Records)

Personnel, employees, and custodian(s) of records of:

Texas Tech University Health Science

P.O. Box 732556

Dallas, TX. 75373-2556

Plaintiff's healthcare provider. Will testify as to Plaintiff's injuries, past and future medical expenses, physical limitations and restrictions, past and future impairment, past and future pain and suffering and mental anguish.

And any other person or expert:

- (a) who has been or will be named by any party in any answer to interrogatory.
- (b) whose name appears on any document which has been or will be produced by any party in any response to request for production.
- (c) whose name is reflected in any document which has been or will be obtained through the use of medical authorization.
- (d) whose name is reflected in any document which has been or will be submitted to the Court by affidavit.
- (e) whose name is reflected in any document which has been or will be subpoenaed by any party.
- (f) whose name appears in the transcript of any deposition taken in this matter.
- (g) whose name is reflected in any document which has been or will be attached to the transcript of any deposition.

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.

707 Myrtle

El Paso, Texas 79901

(915) 581-4600

(915) 581-4605

Daniela@LabinotiLaw.com

/s/ Daniela Labinoti

DANIELA LABINOTI

State Bar No. 24050900

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of December 2021, a true and correct copy of the foregoing was delivered to:

Darryl Vereen

Cal Mundell

MOUNCE, GREEN, MYERS

SAFI, PAXSON & GALATZAN, P.C.

P.O. Drawer 1977

El Paso, Texas 79999-1977

Phone: (915) 532-2000

Fax: (915) 541-1597

vereen@mgmsg.com

mundell@mgmsg.com

Attorneys for Defendant Shamrock Foods Co.

/s/ Daniela Labintori

DANIELA LABINOTI

DL/mt

**IN THE COUNTY COURT AT LAW NUMBER THREE
EL PASO COUNTY, TEXAS**

LUIS DAVID VELARDE-GARCIA
Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants,

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CAUSE NO.: 2021-DCV-3804

PLAINTIFFS DESIGNATION OF NON-RETAINED EXPERTS

COMES NOW, **LUIS DAVID VELARDE-GARCIA**, Plaintiff in the above entitled and numbered cause and files this his Designation of Non-Retained Experts as follows:

PLAINTIFF'S NON-RETAINED EXPERTS

J. Hernandez #2566

Personnel, employees, and custodian(s) of records of:

El Paso Police Department

911 N. Raynor

El Paso, Texas 79902

(915) 212-4000

Will testify concerning his investigation, his findings, Plaintiff's injuries, and police report he prepared, Defendant's negligence.

Jennifer Kulper

Ryan Mielke EMT Paramedic

Dante Cardona EMT Basic

Dennis Redd (Custodian of Records)

Physicians, nurses, employees, personnel and custodian(s) of records of:

El Paso Fire Department

416 N. Stanton

El Paso, TX. 79901

Plaintiff's healthcare provider. Will testify as to Plaintiff's injuries, past and future medical expenses, physical limitations and restrictions, past and future impairment, past and future pain and suffering and mental anguish.

Ryan Bou Said M.D.

Sajeev Ezhapilli Chennan M.D.

Alexander Kresta M.D.

Michelle Lorilla (Custodian of Records)

Physicians, nurses, employees, personnel and custodian(s) of records of:

University Medical Center

4815 Alameda

El Paso, TX. 79905

Plaintiff's healthcare provider. Will testify as to Plaintiff's injuries, past and future medical expenses, physical limitations and restrictions, past and future impairment, past and future pain and suffering and mental anguish.

Sajeev Ezhapilli Chennan M.D.

Ana Deslongchamps (Custodian of Records)

Personnel, employees, and custodian(s) of records of:

Texas Tech University Health Science

P.O. Box 732556

Dallas, TX. 75373-2556

Plaintiff's healthcare provider. Will testify as to Plaintiff's injuries, past and future medical expenses, physical limitations and restrictions, past and future impairment, past and future pain and suffering and mental anguish.

Daniela Labinoti

Law Firm of Daniela Labinoti, P.C.

707 Myrtle Avenue

El Paso, Texas 79901

(915) 581-4600 -Phone

In connection with the Declaratory Judgment action, this expert will testify as to her qualifications, reasonable and necessary attorney fees, including those incurred by Plaintiff calculated by the lode star, hourly rate, number of hours, multiplier, the time and labor required; the novelty and difficulty of the issues; the skill required to perform the legal services properly; the preclusion of other employment; the customary fee [for similar work in the community]; whether the fee is fixed or contingent; time limitations imposed by the client or the circumstances; the amount involved and the results obtained; the experience, reputation, and ability of the attorneys; the undesirability of the case; the nature and length of the professional relationship with the client; and awards in similar cases.

The persons listed above, through medical records affidavits, will testify concerning Plaintiff's condition, her prior and or subsequent conditions, complaints, their diagnoses, prognoses, and opinions concerning plaintiff.

Any witness identified by either party in initial disclosures and any supplement thereto, any witness necessary to authenticate any document, any witness identified as discovery progresses and any treating medical providers identified through discovery.

Also, anyone identified in any documents attached by any party in discovery, documents attached to affidavits in this matter, any documents enclosed with correspondence, any deposition taken in this matter, and any documents attached as an exhibit to any deposition taken in this matter.

And any other person or expert:

- (a) who has been or will be named by any party in any answer to interrogatory.
- (b) whose name appears on any document which has been or will be produced by any party in any response to request for production.
- (c) whose name is reflected in any document which has been or will be obtained through the use of medical authorization.
- (d) whose name is reflected in any document which has been or will be submitted to the Court by affidavit.
- (e) whose name is reflected in any document which has been or will be subpoenaed by any party.
- (f) whose name appears in the transcript of any deposition taken in this matter.
- (g) whose name is reflected in any document which has been or will be attached to the transcript of any deposition.

Other witnesses disclosed by either party during discovery. Plaintiff reserves the right to call any, and all witnesses disclosed or listed by the Defendants.

Plaintiff reserves the right to call and question any and all experts designated by Defendants in this matter and/or called by Defendants.

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.

707 Myrtle

El Paso, Texas 79901

(915) 581-4600

(915) 581-4605

Daniela@LabinotiLaw.com

/s/ Daniela Labinoti

DANIELA LABINOTI

State Bar No. 24050900

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of December 2021, a true and correct copy of the foregoing was delivered to:

Darryl Vereen
Cal Mundell
MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
vereen@mgmsg.com
mundell@mgmsg.com
Attorneys for Defendant Shamrock Foods Co.

/s/ Daniela Labintori
DANIELA LABINOTI

DL/mt

**IN THE COUNTY COURT AT LAW NUMBER THREE
 EL PASO COUNTY, TEXAS**

LUIS DAVID VELARDE-GARCIA
Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

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CAUSE NO.: 2021-DCV-3804

PLAINTIFF'S EXHIBIT LIST

COMES NOW, **LUIS DAVID VELARDE-GARICA**, Plaintiff in the above entitled and numbered cause and files this his Exhibit List in numerical order as follows. Plaintiff intends to use any and all documents produced by Defendants for use against Defendants at trial.

1. Texas Peace Officer's Crash Report dated December 16, 2019.
2. 911 Call Made by Witness Rick Alvarado
3. 911 Event Chronology
4. 911 Event Information
5. Defendant Baca Municipal Court Driving History
6. Plaintiff Luis David Velarde-Garcia's Medical Summary
7. Plaintiff Luis David Velarde-Garcia's EPFD Medical and Billing Records with Affidavits
8. Plaintiff's Luis David Velarde-Garcia's Texas Tech Billing Records with Affidavit
9. Plaintiff's Luis David Velarde-Garcia's UMC Medical and Billing Records with Affidavits
10. Plaintiff's Lost Wages
11. Copy of Plaintiff's Texas Driver's License

12. Also see pleadings, depositions, deposition exhibits, exhibit lists, witness lists, Answers to Interrogatories, Responses to Request for Admissions, Responses to Request for Production, Responses to Request for Disclosure and all documents, records, exhibits, notes, and other tangible items filed by all parties in this case.

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.
707 Myrtle
El Paso, Texas 79901
(915) 581-4600
(915) 581-4605
Daniela@LabinotiLaw.com

/s/ Daniela Labinoti
DANIELA LABINOTI
State Bar No. 24050900

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of December 2021, a true and correct copy of the foregoing was delivered to:

Darryl Vereen
Cal Mundell
MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
vereen@mgmsg.com
mundell@mgmsg.com
Attorneys for Defendant Shamrock Foods Co.

/s/ Daniela Labintori
DANIELA LABINOTI

DL/mt

IN THE COUNTY COURT AT LAW NUMBER THREE

EL PASO COUNTY, TEXAS

LUIS DAVID VELARDE GARCIA

Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

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Cause No. 2021DCV3804

CERTIFICATE OF WRITTEN DISCOVERY

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW SHAMROCK FOODS COMPANY, a Defendants in the above-entitled and numbered cause, and submits its Certificate of Written Discovery regarding the following written discovery requests:

1. Defendant Shamrock Foods Company's Interrogatories and Request for Production to Plaintiff Luis David Velarde Garcia, served on December 30, 2021.

WHEREFORE PREMISES CONSIDERED, Defendant respectfully prays that the Court and all parties take notice of the above and foregoing Certificate, and service of the above-referenced discovery requests, and that the Court grant Defendant such other and further relief, general or special, legal or equitable, to which Defendant may be justly entitled.

Respectfully submitted,

**MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.**
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
E-Mail: vereen@mgmsg.com
E-Mail: mundell@mgmsg.com

By: 

Darryl S. Vereen
State Bar No. 00785148
Cal Mundell
State Bar No. 24109059

Attorneys for Defendant

CERTIFICATE OF SERVICE

In compliance with Texas Rule of Civil Procedure 21a (e), I, **Darryl S. Vereen**, hereby certify that on the 20 day of December, 2021, a true and correct copy of the foregoing document filed electronically with the clerk of the court in accordance with Texas Rule of Civil Procedure 21a (f)(1) is served on the following parties or attorney(s): Daniela Labinoti, Esq., daniela@labinotilaw.com, 707 Myrtle Avenue, El Paso, Texas 79901.



Darryl S. Vereen

**IN THE COUNTY COURT AT LAW NUMBER THREE
EL PASO COUNTY, TEXAS**

LUIS DAVID VELARDE-GARCIA
Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

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CAUSE NO.: 2021-DCV-3804

CERTIFICATE OF SERVICE

I hereby certify that on January 4, 2022, Plaintiff Luis David Velarde-Garcia submitted the following documents to Defendant's attorney of record, Darryl S. Vereen, MOUNCE GREEN MYERS SAFI PAXSON & GALATZAN, P.O. Drawer 1977, El Paso, Texas, 79999-1977:

1. Plaintiff's Interrogatories to Defendant Shamrock Foods Company
2. Plaintiff's Request for Admissions to Defendant Shamrock Foods Company
3. Plaintiff's Request for Production to Defendant Shamrock Foods Company
4. Plaintiff's Certificate of Service

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.
707 Myrtle Ave.
El Paso, Texas 79901
(915) 581-4600
(915) 581-4605
Daniela@LabinotiLaw.com

/s/ Daniela Labinoti
DANIELA LABINOTI
State Bar No. 24050900

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of January 2022, the foregoing pleading was electronically filed with the Clerk of the Court using the Texas Electronic Filing Rules and served via email to:

Darryl S. Vereen

Cal Mundell

MOUNCE GREEN MYERS SAFI PAXSON & GALATZAN

P.O. Drawer 1977,

El Paso, Texas, 79999-1977

vereen@mgmsg.com

mundell@mgmsg.com

/s/ Daniela Labinoti
DANIELA LABINOTI

IN THE COUNTY COURT AT LAW NUMBER THREE

EL PASO COUNTY, TEXAS

LUIS DAVID VELARDE GARCIA

Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

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Cause No. 2021DCV3804

DEFENDANT ROBERT JOSEPH BACA'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW ROBERT JOSEPH BACA, a Defendant in the above-entitled and numbered cause, and files his Original Answer in reply to Plaintiff's Original Petition, and for answer says:

I.

Pursuant to Tex. R. Civ. P. 92, Defendant enters his general denial as to Plaintiff's Petition and demands strict proof thereof.

II.

With regard to any allegations of negligence *per se*, Defendant would show that Defendants' alleged acts or omissions were excused, as that term is defined and understood by law.

III.

Alternatively, Defendant would show the occurrence in question was an unavoidable accident, as that term is defined and understood by law.

IV.

Defendant would show that all or part of Plaintiff's claims are barred by Tex. Civ. Prac. & Rem. Code Ann. §41.0105 since Plaintiff may only recover medical expenses actually paid or incurred.

V.

Defendant would show that all or part of Plaintiff's alleged claims are barred by Tex. Civ. Prac. & Rem. Code Ann. § 18.091, since any evidence of wages or economic damages must be presented in an after-tax format.

VI.

Defendant would show that Plaintiff has failed to mitigate his alleged damages and injuries, if any, as that term is defined and understood by law.

VII.

With regard to any allegation of punitive or exemplary damages, Defendant invokes all caps and limitations set forth in Tex. Civ. Prac. & Rem. Code Ann. § 41.008 *et. seq.* Defendant would further show that the imposition of exemplary or punitive damages against Defendant would violate Defendant's rights under the Fifth, Eighth and Fourteenth Amendments to the United States Constitution, and other similar provisions of the Texas State Constitution. Defendant further objects to the assessment of any pre-judgment interest on any award of exemplary damages, or to being responsible for any exemplary damages not awarded against this specific Defendant pursuant to Tex. Civ. Prac. & Rem. Code Ann. §§ 41.006-007.

VIII.

Defendant requests trial by jury and reserves the right to amend.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that upon final hearing that he be discharged and allowed to go hence without day and with its costs and that the Court grant Defendant such other and further relief, general or special, legal or equitable, to which Defendant may be justly entitled.

Respectfully submitted,

**MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.**
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
E-Mail: vereen@mgmsg.com
E-Mail: mundell@mgmsg.com

By: 

Darryl S. Vereen
State Bar No. 00785148
Cal Mundell
State Bar No. 24109059

Attorneys for Defendants

CERTIFICATE OF SERVICE

In compliance with Texas Rule of Civil Procedure 21a (e), I, **Darryl S. Vereen**, hereby certify that on the 21 day of January, 2022, a true and correct copy of the foregoing document filed electronically with the clerk of the court in accordance with Texas Rule of Civil Procedure 21a (f)(1) is served on the following parties or attorney(s): Daniela Labinoti, Esq., daniela@labinotilaw.com, 707 Myrtle Avenue, El Paso, Texas 79901.


Darryl S. Vereen

**IN THE COUNTY COURT AT LAW NUMBER THREE
EL PASO COUNTY, TEXAS**

LUIS DAVID VELARDE-GARCIA

Plaintiff,

v.

**ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY**

Defendants.

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CAUSE NO.: 2021-DCV-3804

CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2022, Plaintiff Luis David Velarde-Garcia submitted the following documents to Defendants' attorney of record, Darryl S. Vereen, MOUNCE GREEN MYERS SAFI PAXSON & GALATZAN, P.O. Drawer 1977, El Paso, Texas, 79999-1977:

1. Plaintiff's Interrogatories to Defendant Robert Joseph Baca
2. Plaintiff's Request for Admissions to Defendant Robert Joseph Baca
3. Plaintiff's Request for Production to Defendant Robert Joseph Baca
4. Plaintiff's Certificate of Service

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.

707 Myrtle Ave.

El Paso, Texas 79901

(915) 581-4600

(915) 581-4605

Daniela@LabinotiLaw.com

/s/ Daniela Labinoti

DANIELA LABINOTI

State Bar No. 24050900

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of January 2022, the foregoing pleading was electronically filed with the Clerk of the Court using the Texas Electronic Filing Rules and served via email to:

Darryl S. Vereen

Cal Mundell

MOUNCE GREEN MYERS SAFI PAXSON & GALATZAN

P.O. Drawer 1977,

El Paso, Texas, 79999-1977

vereen@mgmsg.com

mundell@mgmsg.com

/s/ Daniela Labinoti
DANIELA LABINOTI

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Daniela Labinoti on behalf of Daniela Labinoti
 Bar No. 24050900
 daniela@labinotilaw.com
 Envelope ID: 61082134
 Status as of 1/24/2022 2:18 PM MST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Daniela Labinoti		daniela@labinotilaw.com	1/24/2022 12:10:32 PM	SENT
Danny Leal		danny@labinotilaw.com	1/24/2022 12:10:32 PM	SENT
Suetta Carder		suetta@labinotilaw.com	1/24/2022 12:10:32 PM	SENT
Melissa Thacker		melissa@labinotilaw.com	1/24/2022 12:10:32 PM	SENT

Associated Case Party: Shamrock Foods Company

Name	BarNumber	Email	TimestampSubmitted	Status
Darryl S.Vereen		vereen@mgmsg.com	1/24/2022 12:10:32 PM	SENT
Yolanda Pearson		ypearson@mgmsg.com	1/24/2022 12:10:32 PM	SENT
Cal Mundell		mundell@mgmsg.com	1/24/2022 12:10:32 PM	SENT
Isabel Olivares		iolivares@mgmsg.com	1/24/2022 12:10:32 PM	SENT
Estella Wilcox		ewilcox@mgmsg.com	1/24/2022 12:10:32 PM	ERROR

IN THE COUNTY COURT AT LAW NUMBER THREE

EL PASO COUNTY, TEXAS

LUIS DAVID VELARDE GARCIA

Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

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Cause No. 2021DCV3804

NOTICE OF INTENT TO USE MEDICAL RECORDS

TO: DEFENDANT, by and through their attorney of record.

This will serve as notice to you of my intention to introduce into evidence in the trial of the above styled and numbered cause certified copies of the following medical records **University Medical Center of El Paso** and showing the medical records of **Luis Velarde** and after the date of the accident made the subject of this suit, such certified copies of the medical records being attached hereto and incorporated herein by reference for all purposes.

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.

707 Myrtle Avenue

El Paso, Texas 79901

(915) 581-4600

(915) 581-4605

Daniela@LabinotiLaw.com/s/Daniela Labinoti**DANIELA LABINOTI**

State Bar No. 24050900

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of January 2022, a true and correct copy of the foregoing was forwarded to:

Darryl Vereen
Cal Mundell
MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
vereen@mgmsg.com
mundell@mgmsg.com
Attorneys for Defendant
Shamrock Foods Co.

/s/Daniela Labinoti
DANIELA LABINOTI

© 11/05/2020 3:01 PM

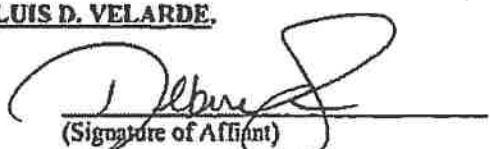
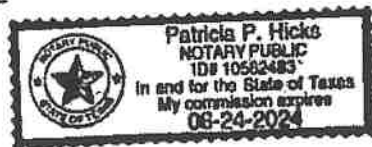
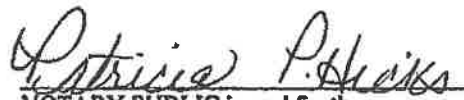
19157920243

+ 19155217591

pg 3 of 4

AFFIDAVIT OF MEDICAL RECORDSSTATE OF Texas
COUNTY OF El Paso§
§
§BEFORE ME, the undersigned authority, personally appeared Deborah Gandora
who, being by me duly sworn, deposed as follows:My name is Deborah Gandora am of sound mind and capable of making this affidavit,
and personally acquainted with the facts herein stated:

I am the custodian of records of University Medical Center of El Paso. Attached hereto are
39 pages of records for LUIS D. VELARDE. These records are kept by University Medical
 Center of El Paso in the regular course of business, and it was the regular course of business of
 University Medical Center of El Paso for an employee or representative University Medical
 Center of El Paso with knowledge of the act, event, condition, opinion, or diagnosis, recorded to
 make the record or to transmit information thereof to be included in such record; and the record was
 made at or near the time or reasonably soon thereafter. The records that are attached are the original
 or exact duplicates of the original records for LUIS D. VELARDE.


 (Signature of Affiant)
SWORN TO AND SUBSCRIBED before me on the 11 day of November 2020

 NOTARY PUBLIC in and for the
 State of Texas

My Commission Expires:

06-24-2024

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 61184233

Status as of 1/26/2022 4:15 PM MST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Danny Leal		danny@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Suetta Carder		suetta@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Daniela Labinoti		daniela@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Melissa Thacker		melissa@labinotilaw.com	1/26/2022 3:17:20 PM	SENT

Associated Case Party: Shamrock Foods Company

Name	BarNumber	Email	TimestampSubmitted	Status
Isabel Olivares		iolivares@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Cal Mundell		mundell@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Estella Wilcox		ewilcox@mgmsg.com	1/26/2022 3:17:20 PM	ERROR
Yolanda Pearson		ypearson@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Darryl S.Vereen		vereen@mgmsg.com	1/26/2022 3:17:20 PM	SENT

IN THE COUNTY COURT AT LAW NUMBER THREE

EL PASO COUNTY, TEXAS

LUIS DAVID VELARDE GARCIA

Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

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Cause No. 2021DCV3804

NOTICE OF INTENT TO USE BILLING RECORDS

TO: DEFENDANT, by and through their attorney of record.

This will serve as notice to you of my intention to introduce into evidence in the trial of the above styled and numbered cause certified copies of the following business records of **University Medical Center of El Paso** and showing the business records of **Luis Velarde** and after the date of the accident made the subject of this suit, such certified copies of the business records being attached hereto and incorporated herein by reference for all purposes.

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.

707 Myrtle Avenue

El Paso, Texas 79901

(915) 581-4600

(915) 581-4605

Daniela@LabinotiLaw.com

/s/Daniela Labinoti

DANIELA LABINOTI

State Bar No. 24050900

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of January 2022, a true and correct copy of the foregoing was forwarded to:

Darryl Vereen
Cal Mundell
MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
vereen@mgmsg.com
mundell@mgmsg.com
Attorneys for Defendant
Shamrock Foods Co.

/s/Daniela Labinoti
DANIELA LABINOTI

BUSINESS AFFIDAVIT OF RECORDS

STATE OF Texas

COUNTY OF El Paso

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Before me, the undersigned authority, personally appeared Michelle Lorilla who, being by me duly sworn, deposed as follows:

My name is Michelle Lorilla I am of sound mind and capable of making this affidavit, and personally acquainted with the facts herein stated.

I am a custodian of records for **University Medical Center of El Paso**. Attached to this affidavit are records that provide an itemized statement of the service and the charge for the service that **University Medical Center of El Paso** provided to LUIS D. VELARDE on 12/10/2019. The attached records are a part of this affidavit.

The attached records are kept by **University Medical Center of El Paso** in the regular course of business, and it was the regular course of business of **University Medical Center of El Paso** for an employee or representative of **University Medical Center of El Paso**, with knowledge of the service provided, to make the record or to transmit information to be included in the record.

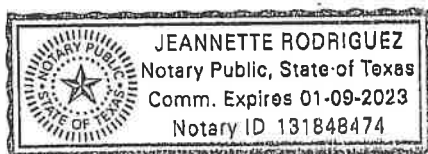
The records were made in the regular course of business at or near the time or reasonably soon after the time the service was provided. The records are the original or a duplicate of the original.

The services provided were necessary and the amount charged for the services was reasonable at the time and place that the services were provided.

The total amount paid for the services was \$ 0 and the amount currently unpaid but which **University Medical Center of El Paso** has a right to be paid after any adjustments or credits is \$ 4,890.40.

Michelle Lorilla
(Signature of Affiant)

SWORN TO AND SUBSCRIBED before me on the 16 day of November, 2020



My Commission Expires:

11/9/2023

[Signature]
NOTARY PUBLIC in and for the
State of Texas

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 61184233

Status as of 1/26/2022 4:15 PM MST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Daniela Labinoti		daniela@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Melissa Thacker		melissa@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Danny Leal		danny@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Suetta Carder		suetta@labinotilaw.com	1/26/2022 3:17:20 PM	SENT

Associated Case Party: Shamrock Foods Company

Name	BarNumber	Email	TimestampSubmitted	Status
Cal Mundell		mundell@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Isabel Olivares		iolivares@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Estella Wilcox		ewilcox@mgmsg.com	1/26/2022 3:17:20 PM	ERROR
Yolanda Pearson		ypearson@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Darryl S. Vereen		vereen@mgmsg.com	1/26/2022 3:17:20 PM	SENT

IN THE COUNTY COURT AT LAW NUMBER THREE

EL PASO COUNTY, TEXAS

LUIS DAVID VELARDE GARCIA

Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

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Cause No. 2021DCV3804

NOTICE OF INTENT TO USE BILLING RECORDS

TO: DEFENDANT, by and through their attorney of record.

This will serve as notice to you of my intention to introduce into evidence in the trial of the above styled and numbered cause certified copies of the following business records of **Texas Tech** and showing the business records of **Luis Velarde** and after the date of the accident made the subject of this suit, such certified copies of the business records being attached hereto and incorporated herein by reference for all purposes.

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.

707 Myrtle Avenue

El Paso, Texas 79901

(915) 581-4600

(915) 581-4605

Daniela@LabinotiLaw.com

/s/Daniela Labinoti

DANIELA LABINOTI

State Bar No. 24050900

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of January 2022, a true and correct copy of the foregoing was forwarded to:

Darryl Vereen
Cal Mundell
MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
vereen@mgmsg.com
mundell@mgmsg.com
Attorneys for Defendant
Shamrock Foods Co.

/s/Daniela Labinoti
DANIELA LABINOTI

11/05/2020 3:52 PM

19157920243

→ 19152158634

pg 3 of 4

BUSINESS AFFIDAVIT OF RECORDSSTATE OF Texas §

§

COUNTY OF El Paso §

Before me, the undersigned authority, personally appeared Ana Deslongchamps, who, being by me duly sworn, deposed as follows:

My name is Ana Deslongchamps I am of sound mind and capable of making this affidavit, and personally acquainted with the facts herein stated.

I am a custodian of records for **Texas Tech University Health Sciences Center El Paso**. Attached to this affidavit are records that provide an itemized statement of the service and the charge for the service that **Texas Tech University Health Sciences Center El Paso** provided to LUIS VELARDE on 12-16-19. The attached records are a part of this affidavit.

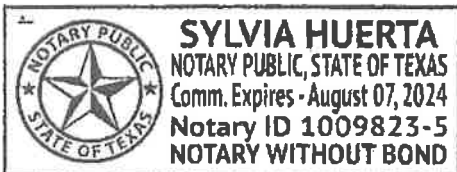
The attached records are kept by **Texas Tech University Health Sciences Center El Paso** in the regular course of business, and it was the regular course of business of **Texas Tech University Health Sciences Center El Paso** for an employee or representative of **Texas Tech University Health Sciences Center El Paso**, with knowledge of the service provided, to make the record or to transmit information to be included in the record. The records were made in the regular course of business at or near the time or reasonably soon after the time the service was provided. The records are the original or a duplicate of the original.

The services provided were necessary and the amount charged for the services was reasonable at the time and place that the services were provided.

The total amount paid for the services was \$ 0.00 and the amount currently unpaid but which **Texas Tech University Health Sciences Center El Paso** has a right to be paid after any adjustments or credits is \$ 272.00.

Ana Deslongchamps
(Signature of Affiant)

SWORN TO AND SUBSCRIBED before me on the 20th day of November, 2020



Sylvia Huerta
NOTARY PUBLIC in and for the
State of Texas

My Commission Expires:

08-07-2024

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 61184233

Status as of 1/26/2022 4:15 PM MST

Associated Case Party: Shamrock Foods Company

Name	BarNumber	Email	TimestampSubmitted	Status
Cal Mundell		mundell@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Isabel Olivares		iolivares@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Estella Wilcox		ewilcox@mgmsg.com	1/26/2022 3:17:20 PM	ERROR
Yolanda Pearson		ypearson@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Darryl S.Vereen		vereen@mgmsg.com	1/26/2022 3:17:20 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Melissa Thacker		melissa@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Danny Leal		danny@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Suetta Carder		suetta@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Daniela Labinoti		daniela@labinotilaw.com	1/26/2022 3:17:20 PM	SENT

IN THE COUNTY COURT AT LAW NUMBER THREE

EL PASO COUNTY, TEXAS

LUIS DAVID VELARDE GARCIA

Plaintiff,

v.

ROBERT JOSHEP BACA, and
SHAMROCK FOODS COMPANY

Defendants.

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Cause No. 2021DCV3804

NOTICE OF INTENT TO USE BILLING RECORDS

TO: DEFENDANT, by and through their attorney of record.

This will serve as notice to you of my intention to introduce into evidence in the trial of the above styled and numbered cause certified copies of the following business records of **El Paso Fire Department** and showing the business records of **Luis Velarde** and after the date of the accident made the subject of this suit, such certified copies of the business records being attached hereto and incorporated herein by reference for all purposes.

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.

707 Myrtle Avenue

El Paso, Texas 79901

(915) 581-4600

(915) 581-4605

Daniela@LabinotiLaw.com/s/Daniela Labinoti**DANIELA LABINOTI**

State Bar No. 24050900

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of January 2022, a true and correct copy of the foregoing was forwarded to:

Darryl Vereen
Cal Mundell
MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
vereen@mgmsg.com
mundell@mgmsg.com
Attorneys for Defendant
Shamrock Foods Co.

/s/Daniela Labinoti
DANIELA LABINOTI

55327382

BUSINESS AFFIDAVIT OF RECORDSSTATE OF Texas §COUNTY OF Tarrant §

Before me, the undersigned authority, personally appeared Melissa Wiginton, who, being by me duly sworn, deposed as follows:

My name is Melissa Wiginton. I am of sound mind and capable of making this affidavit, and personally acquainted with the facts herein stated.

I am a custodian of records for **El Paso Fire Department**. Attached to this affidavit are records that provide an itemized statement of the service and the charge for the service that **El Paso Fire Department** provided to LUIS VELARDE on 12/16/2019. The attached records are a part of this affidavit.

The attached records are kept by **El Paso Fire Department** in the regular course of business, and it was the regular course of business of **El Paso Fire Department** for an employee or representative of **El Paso Fire Department**, with knowledge of the service provided, to make the record or to transmit information to be included in the record. The records were made in the regular course of business at or near the time or reasonably soon after the time the service was provided. The records are the original or a duplicate of the original.

The services provided were necessary and the amount charged for the services was reasonable at the time and place that the services were provided.

The total amount paid for the services was \$0 and the amount currently unpaid but which **El Paso Fire Department** has a right to be paid after any adjustments or credits is \$ 880.50.

Melissa Wiginton
(Signature of Affiant)

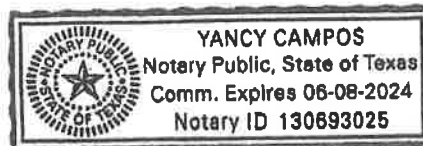
SWORN TO AND SUBSCRIBED before me on the 9 day of November, 2020

-

Yancy Campos
NOTARY PUBLIC in and for the
State of TX

My Commission Expires:

06/08/2024



Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 61184233

Status as of 1/26/2022 4:15 PM MST

Associated Case Party: Shamrock Foods Company

Name	BarNumber	Email	TimestampSubmitted	Status
Yolanda Pearson		ypearson@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Cal Mundell		mundell@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Isabel Olivares		iolivares@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Darryl S.Vereen		vereen@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Estella Wilcox		ewilcox@mgmsg.com	1/26/2022 3:17:20 PM	ERROR

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Daniela Labinoti		daniela@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Danny Leal		danny@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Suetta Carder		suetta@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Melissa Thacker		melissa@labinotilaw.com	1/26/2022 3:17:20 PM	SENT

IN THE COUNTY COURT AT LAW NUMBER THREE

EL PASO COUNTY, TEXAS

LUIS DAVID VELARDE GARCIA

Plaintiff,

v.

ROBERT JOSHEP BACA, and
 SHAMROCK FOODS COMPANY

Defendants.

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Cause No. 2021DCV3804

NOTICE OF INTENT TO USE MEDICAL RECORDS

TO: DEFENDANT, by and through their attorney of record.

This will serve as notice to you of my intention to introduce into evidence in the trial of the above styled and numbered cause certified copies of the following medical records **El Paso Fire Department** and showing the medical records of **Luis Velarde** and after the date of the accident made the subject of this suit, such certified copies of the medical records being attached hereto and incorporated herein by reference for all purposes.

Respectfully submitted,

LAW FIRM OF DANIELA LABINOTI, P.C.

707 Myrtle Avenue

El Paso, Texas 79901

(915) 581-4600

(915) 581-4605

Daniela@LabinotiLaw.com

/s/Daniela Labinoti

DANIELA LABINOTI

State Bar No. 24050900

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of January 2022, a true and correct copy of the foregoing was forwarded to:

Darryl Vereen
Cal Mundell
MOUNCE, GREEN, MYERS
SAFI, PAXSON & GALATZAN, P.C.
P.O. Drawer 1977
El Paso, Texas 79999-1977
Phone: (915) 532-2000
Fax: (915) 541-1597
vereen@mgmsg.com
mundell@mgmsg.com
Attorneys for Defendant
Shamrock Foods Co.

/s/Daniela Labinoti
DANIELA LABINOTI

AFFIDAVIT OF MEDICAL RECORDS

STATE OF Texas

§

COUNTY OF El Paso

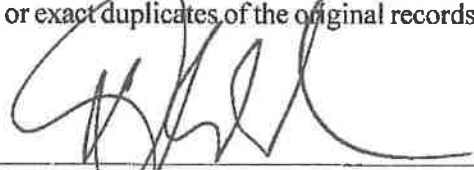
§

§

BEFORE ME, the undersigned authority, personally appeared Dennis Redd, who, being by me duly sworn, deposed as follows:

My name is Dennis Redd. I am of sound mind and capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the custodian of records of **El Paso Fire Department**. Attached hereto are 9 pages of records for **LUIS VELARDE**. These records are kept by **El Paso Fire Department** in the regular course of business, and it was the regular course of business of **El Paso Fire Department** for an employee or representative **El Paso Fire Department** with knowledge of the act, event, condition, opinion, or diagnosis, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter. The records that are attached are the original or exact duplicates of the original records for LUIS VELARDE.



(Signature of Affiant)

SWORN TO AND SUBSCRIBED before me on the 17th day of November, 2020



My Commission Expires

May 23, 2023

Sylvia T. Lerma
NOTARY PUBLIC in and for the
State of Texas

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

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Cal Mundell		mundell@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Isabel Olivares		iolivares@mgmsg.com	1/26/2022 3:17:20 PM	SENT
Estella Wilcox		ewilcox@mgmsg.com	1/26/2022 3:17:20 PM	ERROR

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
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Suetta Carder		suetta@labinotilaw.com	1/26/2022 3:17:20 PM	SENT
Melissa Thacker		melissa@labinotilaw.com	1/26/2022 3:17:20 PM	SENT